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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

F.A.O. No. 4582 of 2007
Date of decision: 20.11.2007

National Insurance Company Limited **..Appellant**

Versus

Smt. Anita Jain and others **...Respondents**

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. R.C.Kapoor, Advocate for the appellant.

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RAJESH BINDAL, J.

The present appeal arises out of an order passed by learned Motor Accident Claims Tribunal (Fast Track Court), Hisar whereby the claim petition filed by the respondents/claimants on account of death of bread earner of the family in an accident on February 6, 2002 was accepted and a compensation of Rs. 8,20,000/- was ordered to be paid including medical and other expenses.

Learned counsel for the appellant primarily argued that the multiplier of 13 applied by learned Tribunal was not proper in the facts and circumstances of the case. The deceased being 50 years of age appropriate multiplier should be not more than 11. It is found by the Tribunal that deceased Satinder Jain alongwith his driver Mahesh was going in Maruti Wagon R bearing Registration No. DL-2CR-5319 on February 6, 2002. They were hit by a speeding Mercedes Benz bearing No. DL-6CA-4610 at Prithvi Raj Road, Delhi. It is alleged that offending vehicle was being driven rashly and negligently. After the accident the deceased Satinder Jain and the driver were shifted to Ram Manohar Lohia Hospital, Delhi. Thereafter because of their critical condition, there were shifted to Sir Ganga Ram Hsopital, New Delhi. However, later in the day, Satinder Jain expired. He is claimed to be sole bread earner of the family having old father, wife and two young children to support. It has further been claimed that a sum of Rs. 50,000/- was spent on his treatment at Delhi and further a

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sum of Rs. 10,000/- was spent on his last rites.

As far as compensation is concerned, it is found that deceased was an income tax payee. For the year 1999-2000, his income was declared at Rs. 98,840/-. For the current year during which the fatal accident took place the income was declared at Rs. 99,800/-. The evidence regarding payment of sale tax of various period on account of business being carried by him were also placed on record. However, the Tribunal on considering the entire evidence assessed the income of deceased at Rs. 90,000/- per annum, which is not being disputed by the appellant. The challenge is limited to the application of multiplier. Though schedule attached to the Motor Vehicle Act, 1988 provides for a multiplier of 11, in case the deceased is 50 to 55 years of age, however, seeing the number of persons in the family, the deceased was to support and shock to father of the deceased, who is 95 years of age, loss of consortium and loss of estate, in my opinion, the total amount of compensation awarded by the Tribunal is not on the higher side as even if the argument of learned counsel for the appellant is accepted and multiplier of 11 is applied, still there is scope for reduction of personal maintenance expenses, which were taken as 1/3rd by the Tribunal as it was a family of five units.

Accordingly, I do not find any merit in the appeal, the same is dismissed.

November 20, 2007 **(Rajesh Bindal)**
Pka **Judge**